

67-1-1.5 Gubernatorial appointment powers.

(1) As used in this section:

- (a) "Board member" means each gubernatorial appointee to any state board, committee, commission, council, or authority.
- (b) "Executive branch management position" includes department executive directors, division directors, and any other administrative position in state government where the person filling the position:
 - (i) works full-time performing managerial and administrative functions;
 - (ii) is appointed by the governor with the consent of the Senate.
- (c)
 - (i) "Executive branch policy position" means any person other than a person filling an executive branch management position, who is appointed by the governor with the consent of the Senate.
 - (ii) "Executive branch policy position" includes each member of any state board and commission appointed by the governor with the consent of the Senate.

(2)

- (a) Whenever a vacancy occurs in any executive branch policy position or in any executive branch management position, the governor shall submit the name of a nominee to the Senate for consent no later than three months after the day on which the vacancy occurs.
- (b) If the Senate fails to consent to that person within 90 days after the day on which the governor submits the nominee's name to the Senate for consent:
 - (i) the nomination is considered rejected; and
 - (ii) the governor shall resubmit the name of the nominee described in Subsection (2)(a) or submit the name of a different nominee to the Senate for consent no later than 60 days after the date on which the nomination was rejected by the Senate.

(3)

- (a) Whenever a vacancy occurs in any executive branch management position, the governor may either:
 - (i) appoint an interim manager who meets the qualifications of the vacant position to exercise the powers and duties of the vacant position for three months, pending consent of a person to permanently fill that position by the Senate; or
 - (ii) appoint an interim manager who does not meet the qualifications of the vacant position and submit that person's name to the Senate for consent as interim manager within one month of the appointment.
- (b) If the Senate fails to consent to the interim manager appointed under Subsection (3)(a)(ii) within 30 days after the day on which the governor submits the nominee's name to the Senate for consent:
 - (i) the nomination is considered rejected; and
 - (ii) the governor may:
 - (A)
 - (I) reappoint the interim manager to whom the Senate failed to consent within 30 days; and
 - (II) resubmit the name of the person described in Subsection (3)(b)(ii)(A)(I) to the Senate for consent as interim manager; or
 - (B) appoint a different interim manager under Subsection (3)(a).
- (c) If, after an interim manager has served three months, no one has been appointed and received Senate consent to permanently fill the position, the governor shall:
 - (i) appoint a new interim manager who meets the qualifications of the vacant position to exercise the powers and duties of the vacant position for three months; or

- (ii) submit the name of the first interim manager to the Senate for consent as an interim manager for a three-month term.
- (d) If the Senate fails to consent to a nominee whose name is submitted under Subsection (3)(c)
 - (ii) within 30 days after the day on which the governor submits the name to the Senate:
 - (i) the nomination is considered rejected; and
 - (ii) the governor shall:
 - (A)
 - (I) reappoint the person described in Subsection (3)(d); and
 - (II) resubmit the name of the person described in Subsection (3)(d) to the Senate for consent as interim manager; or
 - (B) appoint a different interim manager in the manner required by Subsection (3)(a).
- (4) The governor may not make a temporary appointment to fill a vacant executive branch policy position.
- (5)
 - (a) Before appointing any person to serve as a board member, the governor shall ask the person whether or not the person wishes to receive per diem, expenses, or both for serving as a board member.
 - (b) If the person declines to receive per diem, expenses, or both, the governor shall notify the agency administering the board, commission, committee, council, or authority and direct the agency to implement the board member's request.
- (6) A gubernatorial nomination upon which the Senate has not acted to give consent or refuse to give consent is void when a vacancy in the office of governor occurs.

Amended by Chapter 355, 2010 General Session